

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Friday, April 20, 2007 – 2:00 p.m.
Time Certain
Glendale Civic Center
5750 W. Glenn Drive
Glendale, Arizona 85301

PRESENT: (Commission)

(Director's Staff)

Chairman Michael M. Golightly
Commissioner William H. McLean
Commissioner Robert Hernbrode
Commissioner Jennifer L. Martin
Commissioner Joe Melton

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Shelley Cutts

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: Pat Barber, Law Enforcement Branch Chief

Each of these cases have been reviewed and it has been determined that all cases meet the criteria established in A.R.S. §15-714, §17-238, §17-314, §17-340, §17-362 and/or §17-363 for Commission action. The Commission and the respondents have been provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. All of these exhibits may be considered by the Commission in order to make a final determination. Each of the following individuals has been legally noticed for this hearing.

<u>Name</u>	<u>Conviction</u>
Lutz, Charles E.	Count A: Take wildlife in closed season (bear). Count B: Possess/transport wildlife or parts of wildlife unlawfully taken (bear). Count C: Take wildlife without valid license (bear). Count D: Allow edible portions of wildlife to waste (bear).
Reidhead, Royal T.	Count A: Take wildlife without a license (dove). Count B: Vandalism while hunting. Count C: Knowingly waste game meat (dove). Count D: Litter while hunting. Count E: Shoot from a motor vehicle.
Mendoza, Juan V.	Count A: Possession of another's tag (deer).
Feldhake, Richard E.	Count A: Allow use of another's tag (deer).
Salgado, Ricardo A.	Count A: Take wildlife without a valid license (deer). Count B: Take wildlife in closed season (deer). Count C: Shoot wildlife from a vehicle (deer).
Viehmann, Matthew L.	Count A: Possession of unlawfully taken wildlife (elk).

Roll call was taken and the following were present: Charles E. Lutz, Royal T. Reidhead, Richard E. Feldhake.

The Commission was asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above.

Motion: McLean moved and Melton seconded THAT THE COMMISSION TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous

Mr. Barber stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment.

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Charles E. Lutz

Lutz was found guilty by the East Mesa Justice Court for: Count A: Take wildlife in closed season (bear); Count B: Possess/transport wildlife or parts of wildlife unlawfully taken (bear); Count C: Take wildlife without valid license (bear); and Count D: Allow edible portions of wildlife to waste (bear); and sentenced Count A: Fined \$455.00; Count B: Fined \$455.00; Count C: Fined \$200.00; and Count D: Fined \$230.00.

Lutz was present and addressed the Commission stating that the report was true and apologized for his actions.

Motion: McLean moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF CHARLES E. LUTZ TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FOUR (4) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST CHARLES E. LUTZ TO COLLECT THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) BLACK BEAR; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Royal T. Reidhead

There is a case related to this one that has not yet been adjudicated.

Reidhead was found guilty by the Apache Junction Justice Court for: Count A: Take wildlife without a license (dove); Count B: Vandalism while hunting; Count C: Knowingly waste game meat (dove); Count D: Litter while hunting; Count E: Shoot from a motor vehicle; and sentenced Counts A, B, C, D, and E: Fined \$2,500 and Thirty-six (36) months of unsupervised probation.

Reidhead was present and addressed the Commission apologizing for his actions.

Chairman Golightly stated that one of the reasons the public is losing access in this State is because of the people who have fun shooting up ranch and private property such as fence post, gates, cows, cacti, etc.

Motion: Martin moved and Hernbrode seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF ROYAL T. REIDHEAD TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT **SHARED** CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST ROYAL T. REIDHEAD TO COLLECT THE AMOUNT OF **\$25.00** FOR **HIS PART** IN THE LOSS OF ONE (1) DOVE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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The cases of Mendoza and Feldhake were related and the Commission decided to address them last after discussing with legal counsel.

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Ricardo A. Salgado

Salgado was found guilty by the North Mesa Justice Court for: Count A: Take wildlife without a valid license (deer); Count B: Take wildlife in closed season (deer); Count C: Shoot wildlife from a vehicle (deer); and sentenced Count A: Sentence suspended; Count B and C: Total Fine of \$728.00.

Salgado was not present.

Motion: Hernbrode moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF **RICARDO A. SALGADO** TO **HUNT, FISH AND TRAP** IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF **FIVE (5)** YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4 to 0
Golightly absent

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Matthew L. Viehmann

Viehmann was found guilty by the Williams Justice Court for: Count A: Possession of unlawfully taken wildlife (elk); and sentenced Count A: Fined \$375.00 including surcharge.

Viehmann was not present.

Mr. Barber reported that Viehmann called the Department and stated that he was having vehicle trouble and would not make it to this hearing. To Mr. Barber's knowledge, Viehmann did not request a postponement.

Motion: Hernbrode moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF **MATTHEW L. VIEHMANN** TO **HUNT, FISH AND TRAP** IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF **FIVE (5)** YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST **MATTHEW L. VIEHMANN** TO COLLECT THE AMOUNT OF **\$8,000.00** FOR THE LOSS OF **ONE (1) BULL ELK**; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner McLean requested that the motion be amended to state “one (1) Trophy Bull Elk”.

Amended Motion: Hernbrode moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MATTHEW L. VIEHMANN TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT’S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST MATTHEW L. VIEHMANN TO COLLECT THE AMOUNT OF \$8,000.00 FOR THE LOSS OF ONE (1) TROPHY BULL ELK; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4 to 0
Golightly absent

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Executive Session

The Commission voted to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

Motion: Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous
4 to 0
Golightly absent

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The following two cases were related.

Juan V. Mendoza

Mendoza was found guilty by the Bagdad Justice Court for: Count A: Possession of another’s tag (deer); and sentenced Count A: Fined \$420.00.

Mendoza was not present.

Motion: McLean moved and Hernbrode seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JUAN V. MENDOZA TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Richard E. Feldhake

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO DISMISS, FOR LEGAL REASONS, THIS PROCEEDING AGAINST RICHARD E. FELDHAKE.

Vote: Unanimous

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These hearings concluded at 2:58 p.m.

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